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## **APPENDIX C – FEDERAL HIGHWAY ADMINISTRATION**

This appendix contains information specific to the Federal Highway Administration (FHWA) and Federal-aid programs and projects. Included are: the Delaware Department of Transportation/Federal Highway Administration Stewardship Agreement (which includes the Memorandum of Agreement, Construction Contract Change Approval Requirements for Federal-Aid Oversight Projects); and a list of requested notification of FHWA for projects with federal oversight.



**Delaware Department of Transportation/  
Federal Highway Administration**

**Stewardship Agreement**

**To**

**Implement the Flexibility Provisions**

**Of**

**23 United States Code Part 106**

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**TABLE OF CONTENTS**

SECTIONS

1. Purpose
2. Acronyms
3. Definitions
4. Operating Environment
5. Approved Procedures
6. Planning Program
7. Statewide Research and Technology Transfer Program
8. Civil Rights Program
9. Environmental Program
10. Right-of-Way Program
11. Project Design and Construction
12. Maintenance Program
13. Bridge Program
14. Safety Program
15. Intelligent Transportation Systems
16. Financial Management
17. Local Public Agencies

Appendix A – FHWA Oversight Projects

Appendix B – Memorandum of Agreement on Contract Changes

Appendix C – Process Review Guidelines

Appendix D – National Highway System Map

**SECTION 1. PURPOSE**

This Agreement outlines, as required under 23 USC Part 106, the procedures adopted by the State of Delaware Department of Transportation (DelDOT) and the Federal Highway Administration Delaware Division (FHWA) that will be used for the administration of Federal-aid programs and projects. This plan covers all projects where Federal-aid funding is used and provides procedures for program oversight responsibilities and accountability in essential functional areas based on those program efficiency options selected by DelDOT.

## SECTION 2. ACRONYMS

3R: Resurfacing, Rehabilitation and Restoration

AASHTO: American Association of State Highway and Transportation Officials

CFR: Code of Federal Regulations

EPA: Environmental Protection Agency

FTA: Federal Transit Administration

HPMS: Highway Performance Monitoring System

HSIP: Highway Safety Improvement Program

HSP: Highway Safety Program

I: Interstate

IM: Interstate Maintenance

MPO: Metropolitan Planning Organization

NEPA: National Environmental Policy Act

NBIS: National Bridge Inspection Standards

NHS: National Highway System

NHTSA: National Highway Traffic Safety Administration

PS&E: Plans, Specifications and Estimate

SPR: Statewide Planning and Research

STIP: Statewide Transportation Improvement Program

STP: Surface Transportation Program

TEA-21: Transportation Equity Act for the 21<sup>st</sup> Century

U.S.C.: United States Code

## SECTION 3. DEFINITIONS

- A. Project: The term “project,” means a transportation activity whereby a specific scope of work is accomplished and which is “initiated” as a defined project for the DelDOT.

- B. Contract: The term “contract” means one or more activities grouped together for assignment to a third party and a legal contractual agreement has been executed by DelDOT.

- C. Construction Cost: The term “construction cost” means the cost of a specific project including construction engineering and contingencies, but excluding preliminary engineering and right-of-way.

- D. Full Federal Oversight: The term “full Federal oversight” or “oversight” refers to those projects that require FHWA review, oversight and approval action at key stages of project development and construction. Review and oversight includes design activities, plan approval, specification approval, estimates approval, contract awards, and inspections of projects.

## APPENDIX C – FEDERAL HIGHWAY ADMINISTRATION

Revised: January 2004

- E. State Administered: The term “state administered” refers to those projects that FHWA will not provide review and oversight on a project-by-project basis unless requested to do so by DelDOT. Although DelDOT will assume this project level authority, the FHWA is not relieved from its ultimate responsibility for ensuring that the Federal-aid projects and programs are implemented consistent with established requirements.
- F. Exception: The term “exception” means a deviation from standard policies and regulations.
- G. Reconstruction: Typical reconstruction means the demolition and full depth replacement of the pavement structure, rubblization or crack-and-seat of existing pavement combined with full depth overlay, removal and replacement of any significant part of the substructure or the superstructure, and total replacement of highway signs, highway lighting, or drainage systems.
- H. 3R Work: For the purposes of this Agreement, 3R projects include those that are generally accepted as extending the service life of highways and enhancing highway safety. 3R work includes the placement of additional surface material and/or other work necessary to return an existing roadway (including shoulders, bridges, roadside, and appurtenances) to a condition of structural or functional adequacy. This may include upgrading of geometric features, such as minor roadway widening, flattening curves, or improving sight distance. 3R projects are typically constructed within existing right-of-way, although some minor acquisitions may be necessary to enhance safety. Their purpose is to restore safe, efficient travel, and does not include the addition of through lanes, passing lanes, or auxiliary lanes, although turn lanes and radius improvements at intersections may be involved.
- I. Preventive maintenance: Preventive maintenance is the lowest level of 3R work and includes restoration or rehabilitation of specific elements of a highway facility when it can be demonstrated, such as through an acceptable pavement or bridge management system, that such activities are a cost-effective means of extending the pavement life. In general, any work that **1)** provides additional pavement structural capacity (general overlays or replacement of portions of the pavement structure up to 4 inches); **2)** prevents the intrusion of water into the pavement or pavement base (crack or joint sealing, underdrains, restoration of drainage systems); **3)** restores pavement rideability (profiling, milling); or **4)** prevents deterioration of bridges (cleaning and painting, seismic retrofit, scour countermeasures, deck rehabilitation and repair, deck drain cleaning) are considered to be work which extends the service life of the highway.
- J. Force Account Work: Direct performance of highway construction work by a State highway agency, a county, a railroad, or a public utility company by use of labor, equipment, materials, and supplies furnished by them and used under their direct control.
- K. Open-end Agreements: An umbrella-type agreement, limited in duration to three years, containing all elements of a standard agreement except for the specific projects to be completed. Notices to proceed are issued on a project-by-project basis.
- L. Person in Responsible Charge: A full-time public employee assigned as project manager and responsible for making contract administrative decisions and performing final project inspections.

### SECTION 4. OPERATING ENVIRONMENT

FHWA and DelDOT enjoy a long history of working together to provide a safe and efficient transportation system to the people of Delaware. Through this document, FHWA and DelDOT define roles, responsibilities and procedures to continue this partnership while fulfilling FHWA’s accountability for the stewardship and oversight of Federal highway funding. The FHWA utilizes various approaches to accomplish its stewardship and oversight activities. Program and Process reviews, individual project-level involvement, telephone contacts, participation in meetings, participation in task forces, and similar types of activities will be used for fulfilling FHWA responsibilities. FHWA will develop an annual Performance Plan that will outline Stewardship and Oversight activities. A prioritization process will be used in cooperation with DelDOT in establishing these annual activities.

## PROCESS REVIEWS

Process reviews will be established jointly by FHWA and DelDOT to evaluate the major activities of the functional elements outlined in this Stewardship Agreement. Factors used in establishing these topics include changes to Federal laws and regulations, efficient use of resources, current emphasis areas from the national perspective, and areas perceived as in need of improvement or additional oversight. The annual program of process reviews will reflect the FHWA and DelDOT's determination of the highest priority process review topics. Process reviews will be conducted in accordance with the Process Review Guidelines in **Appendix C**.

### SECTION 5. APPROVED PROCEDURES

DelDOT has developed several procedural manuals which guide the implementation of their highway program, including those projects that are Federally funded. The following is a listing of those documents that have been approved by the FHWA for use on both Oversight and State Administered projects. As these manuals are updated or modified changes will be forwarded to FHWA for approval.

#### A. Standard Specifications:

In accordance with 23 CFR 630, FHWA approved the August 2001 Standard Specifications manual on September 19, 2001. Subsequent changes to the standard specs are to be approved by FHWA prior to their inclusion in Federal-aid projects.

#### B. Standard Construction Details:

In accordance with 23 CFR 630, FHWA approved the 2000 Standard Construction Details on July 10, 2001 and revisions on September 24, 2002. Subsequent changes to the standard specs are to be approved by FHWA prior to their inclusion in Federal-aid projects. A Standard Working Committee that includes FHWA produces yearly updates to the manual.

#### C. Road Design Manual:

The Road Design Manual was approved for use on Federal-aid projects on August 28, 1985. It provides guidance for the practices and procedures used for the design of roadways and related construction street details and the preparation of contract plans. The 1985 manual is currently under revision and has a planned completion date of 2003. Once completed, the new manual will be submitted to FHWA for approval for use on both Oversight and State Administered Federal-aid projects.

#### D. Bridge Design Manual:

FHWA is currently working with DelDOT to update their Bridge Design Manual. It references this Stewardship Agreement and includes the criteria for those projects that require FHWA design oversight. Once complete, DelDOT's updated Bridge Design Manual will be submitted to FHWA and approved for use on all Federal-aid projects.

#### E. Bridge Management Manual:

DelDOT's Bridge Management Manual defines the application of the National Bridge Inspection Standards (NBIS) in Delaware and is structured to be compatible with FHWA's *Recording and Coding Guide for the Inventory and Appraisal of the Nation's Bridges*. Any changes in this manual will be coordinated with FHWA to ensure continued compatibility with federal regulations and guidance.

Revised: January 2004

F. Right-of-Way Manual:

The new DelDOT Right-of-Way manual was approved by FHWA on September 20, 2000 for use on Federal-aid projects. Any significant revisions or modifications to this manual will be submitted to FHWA for approval.

G. Delaware 2000 - Traffic Controls for Street and Highway Construction, Maintenance, Utility and Emergency Operations:

The FHWA has approved the use of the above manual, in lieu of Part VI of the MUTCD, on Federal-aid projects. The DelDOT's manual will be modified to meet the new requirements of the MUTCD 2000. All changes to the manual will be approved by FHWA.

H. Professional Services Procurement Manual:

FHWA has approved the procedures contained in DelDOT's Professional Services Procurement Manual for use on Federal-aid projects. Consultant contracts that follow the procedures contained in this Manual need not be submitted to FHWA for approval. For Oversight projects, DelDOT will forward a copy of the executed contract to FHWA.

FHWA recognizes that DelDOT has developed other procedural guidance manuals and directives, which further guide the implementation of their highway program, including those projects that are federally funded. To the extent that these manuals may address Federal requirements, DelDOT will coordinate with FHWA as these manuals are modified or updated.

**SECTION 6. PLANNING PROGRAM**

A. Work Program

Title 23, CFR, Part 420, Planning and Research Program Administration contains the policies and procedures for administering activities and studies undertaken by States and MPOs funded through their respective Work Program or as separate projects not included in a Work Program.

1. Statewide Planning and Research (SPR) Work Program

DelDOT prepares the Work Program annually. FHWA provides pre-program guidance, draft review comments, if any, approves the Work Program, and authorizes SPR funds. FHWA monitors the work throughout the year using day-to-day involvement as appropriate. DelDOT submits a Quarterly and Annual Accomplishment and Expenditure Report to FHWA.

2. MPOs' Unified Planning Work Program (UPWP)

The UPWP is prepared annually by each MPO and reviewed by DelDOT, FHWA, and FTA. FHWA and FTA comments are provided to the MPO jointly with DelDOT's, or may be provided individually through the MPO's Technical Advisory Committee review process. FHWA authorizes the Urban Planning funds upon joint FHWA/FTA approval of the UPWPs. DelDOT and FHWA monitor Work Program through monthly status and expenditure reports, and by participation in MPO meetings.

B. Statewide Transportation Planning

Title 23, CFR, Part 450, Subpart B, addresses the requirements of the statewide transportation planning process.

1. Statewide Long Range Transportation Plan

DelDOT develops a Statewide Long Range Transportation Plan which considers all modes of transportation; covers at least a 20-year planning horizon; includes a plan for bicycle transportation and pedestrian walkways; contains financial information which compares revenues with costs of construction, maintenance, capital purchases and operations; considers the seven broad areas contained in the CFR; and provides an opportunity for public comment.

2. Statewide Transportation Improvement Program (STIP)

DelDOT develops a STIP containing all projects to be funded by FHWA and FTA for 3 years. The STIP is updated by DelDOT and submitted to FHWA and FTA for approval every year. Projects contained in the STIP must be consistent with the Statewide Transportation Plan and the MPO TIPs, and must include public involvement and provide interested parties a reasonable opportunity to comment on the proposed program. Along with the STIP, DelDOT will certify that the projects in the STIP are based on a planning process that meets the requirements of 23 U.S.C. 134 and 135, 49 U.S.C. 5303, and 23 CFR 450.

DelDOT is required to make a Conformity Determination on the portions of the STIP that pertain to non-attainment areas. Currently, all three counties are in non-attainment for ozone and therefore a Conformity Determination is required for the whole STIP.

- C. Metropolitan Planning

Title 23, CFR Part 450, Subpart C, addresses metropolitan planning requirements.

1. MPO Long range Transportation Plan

Each MPO in an Air Quality non-attainment area must update their Long Range Transportation Plan every 3 years which: covers at least a 20-year planning horizon; includes long range and short range strategies which lead to an integrated intermodal plan; includes a financial plan which compares estimated revenues with costs of construction, maintenance, capital purchases and operations; considers the seven broad planning areas; and provide an opportunity for public comment.

The FHWA and FTA, in cooperation with EPA, must approve the MPO's Conformity Determination. In non-attainment areas, development of the plan must be coordinated with the development of Transportation Control Measures for the State Implementation Plan (SIP) under the Clean Air Act Amendments (CAAA). The MPO will approve the Transportation Plan and provide informational copies to the Governor, FHWA and FTA. The FHWA Division, in cooperation with DelDOT, monitors the development and updating of the Plan for compliance with regulations and progress of the work.

2. MPO Transportation Improvement Program (TIP)

Each MPO, in cooperation with the State and its public transit operators will prepare and update a TIP each year covering at least 3 years. The TIP shall include all projects requiring FHWA and FTA approval; include a priority list of projects to be carried out in the first 3 years; identify each project or phase; and be financially constrained. The TIP development process must provide a reasonable opportunity for public comment. Highway and transit projects must be selected in accordance with the specific funding programs.

In the non-attainment areas, an air quality Conformity Determination must be made by the MPO. In turn, FHWA and FTA, in cooperation with EPA, jointly approve the Conformity Determination. The MPO and the Governor will approve the TIP. Informational copies of the approved TIP will be sent to FHWA and FTA. Along with the TIP, the MPOs will continue to self-certify that the TIP is based on a continuing and comprehensive transportation planning process carried on cooperatively and in accordance with the provisions of 23 U.S.C. 134 and 49 U.S.C. 1607.



Revised: January 2004

3. Congestion Management System

Title 23 CFR, Part 500 (Management and Monitoring Systems) provides the regulatory guidance for air quality non-attainment areas over 200,000 population (WILMAPCO in Delaware) to develop, establish, and implement a congestion management system. The CMS shall identify travel demand reduction and operational management strategies for the corridor that is expected to have a significant increase in capacity for Single Occupant Vehicles due to adding lanes or building a new highway.

D. Congestion Mitigation and Air Quality Improvement Program (CMAQ)

Title 23, U.S.C. 149 and the February 23, 2000 Federal Register entitled, “Final Guidance for the CMAQ Improvement Program”; addresses the requirement for an annual report on the expenditure of CMAQ funds and the expected air quality benefits.

DelDOT will submit a list of CMAQ-eligible projects, with the draft STIP, to the appropriate MPO for its concurrence in using CMAQ funds for these projects.

E. ***Traffic Monitoring System***

Title 23 CFR, Part 500 provides the regulatory guidance for the development and operation of a traffic monitoring system for highways including traffic counting, vehicle classification, and weigh-in-motion programs. The system is guided by the “AASHTO Guidelines for Traffic Data Programs,” augmented by the FHWA “Traffic Monitoring Guide” and the “Highway Performance Monitoring System Field Manual.”

F. Highway Performance Monitoring System (HPMS)

Title 23, CFR, Part 420 addresses the policy for states to provide data that support FHWA's responsibilities to the Congress and to the public. The Highway Performance Monitoring System Field Manual provides instructions for collecting and reporting quality and timely data in the condition and performance of the highways and streets.

G. Highway Statistics Reports

Title 23, CFR; Part 420 addresses the policy for states to provide data that supports FHWA's responsibilities to the Congress and to the public. The “Guide to Reporting Highway Statistics” manual provides instructions for compiling and reporting: motor fuel consumption, motor fuel tax revenues, motor vehicle registrations and fees, driver licenses and fees, highway income and expenditures, debt service, and highway capital outlay and maintenance expenditures. Additional information provided to FHWA includes the DelDOT Trust Fund Annual Report, the Delaware Memorial Bridge (I-295) and Cape May, NJ - Lewes DE Ferry toll report, SR 1 and I-95 toll report.

H. Certification of Public Road Mileage

Title 23, CFR, Part 460 addresses the policies and procedures for identifying and reporting public road mileage for utilization in the statutory formula for the apportionment of Highway Safety funds under 23 U.S.C. 402(c). By June 1 of each year, the Governor (or DelDOT designee) certifies the public road mileage in the state as of the end of the previous calendar year.

I. Certification of Enforcement of Heavy Vehicle Use Tax

Title 23, CFR, Part 659 prescribes requirements for states to follow in order to annually certify that proof of payment of the Federal Heavy Vehicle Use tax is obtained before individuals can register their heavy trucks. By July 1 of each year, the Governor (or designee) certifies that Delaware is obtaining proof of payment of the Heavy Vehicle Use tax as a condition of registration. The 12-month certification period ends May 31.

**SECTION 7. STATEWIDE RESEARCH AND TECHNOLOGY TRANSFER PROGRAM****A. Statewide Research**

23 CFR Part A & B provides increased flexibility for using FHWA planning funds as well as requiring a minimum expenditure (25%) of the Statewide Planning and Research (SPR) funds expressly for research, development and now, technology transfer activities.

In 1995, DelDOT established a research, development, and technology transfer process for identifying research needs and setting priorities in conjunction with the Delaware Center for Transportation at the University of Delaware to address high priority transportation issues. DelDOT's annual budget includes funds for the National Cooperative Highway Research Program (NCHRP), the Transportation Research Information Services (TRIS), national and regional pooled-fund studies and collaborative research on a cost-shared basis with the FHWA Headquarters office. Applied research studies are completed which result in practical solutions to specific problems in transportation.

**B. Technology Transfer**

A nationwide network of technology transfer centers (T<sup>2</sup> Centers) in cooperation with State Departments of Transportation provide local public works and transportation agencies, along with contractors that do work for these agencies, with training and technical assistance to meet the growing demands placed on their individual agencies and the transportation network. The program is administered through a national network of T2 Centers in each State and Puerto Rico, and through the six regional centers serving over 540 Native American tribal governments. FHWA's Office of Professional Development directs the program. Delaware's T<sup>2</sup> Center was established in 1988 at DelDOT and in 2002 relocated to the Delaware Center for Transportation at the University of Delaware.

The FHWA "LTAP Handbook" provides the guidance needed to operate and administer the program.

By November 1 of each year, the T<sup>2</sup> Center prepares a Work Plan and budget for the upcoming calendar year. The budgeted activities include: maintaining a mailing list and publishing a quarterly newsletter to spread the word about innovative technology; providing information training and technical assistance to local agencies; and a periodic evaluation of the Center's program to better serve local agencies. FHWA funds obligated for LTAP require a 50/50 match from other sources.

FHWA staff authorizes the Work Plan activities and provide technical material, advice and guidance to the Center's staff.

**SECTION 8. CIVIL RIGHTS PROGRAM**

The requirements for external civil rights activities are contained not only in Title 23, but the Civil Rights Act of 1964 and 49 CFR. Title VI, the Equal Employment Opportunity Program on Federal-aid highway construction projects, on-the-job training and supportive services, State equal employment opportunity programs, and the disadvantaged business enterprise program continue under TEA-21.

The required annual programs, requests for proposals, number of on-the-job training slots, percent of work to be performed by disadvantaged businesses, etc., and the associated documents or reports will be evaluated by the FHWA and approved or transmitted to FHWA Headquarters with a recommended action, as appropriate.

All FHWA personnel will be aware of the civil rights requirements and responsibilities in their respective areas and will monitor their compliance as a part of normal activities. The FHWA will provide guidance and direction associated with activities such as certifying DBEs, establishing contract DBE goals and establishing on-the-job training slots. In addition, the FHWA will participate in Title VI, contract compliance and other civil rights reviews

Revised: January 2004

performed by the State. The FHWA will be an active participant in any review performed by the FHWA Headquarters office.

#### Partnership Agreements

DelDOT, FHWA, and the Delaware State University entered into a Continuing Partnership Agreement in 1996. The purpose of the agreement is to provide a cooperative framework for the parties to establish, implement, and enhance goals to increase the participation of Historically Black Colleges and Universities (HBCU) in DelDOT and FHWA programs and enhance DelDOT and FHWA support for HBCU institutions. Initiatives include increased participation in academic and research programs, career orientations, hosting a Summer Transportation Institute, and many others. The Partnership Administrative Committee, comprised of members from each entity, meet on a regular basis.

### **SECTION 9. ENVIRONMENTAL PROGRAM**

The passage of TEA-21 resulted in many changes in the stewardship requirements for the Federal-aid program. Most environmental requirements, however, are contained in laws other than those related to Title 23. Project environmental actions remain reactive to the requirements of NEPA, Section 4(f), and Section 106 of the National Historic Preservation Act, Section 404 Permits, and others; and were not affected by TEA-21.

No major changes occurred in stewardship responsibilities as a result of the passage of TEA-21. FHWA will continue to assess the environmental impacts on a project-by-project basis.

Public involvement and other intergovernmental review and coordination will be accomplished on all Federal-aid projects in accordance with procedures developed by DelDOT, and furnished to the FHWA. Sufficient information regarding project scope and effect will be provided in order that a determination of project classification in accordance with NEPA (Categorical Exclusion, Environmental Assessment, or Environmental Impact Statement), can be made early in the project development process. DelDOT will submit a classification determination, along with an appropriate environmental analysis, to FHWA for action in accordance with 23 CFR 771.

On those projects requiring a Sec. 404 Wetlands Permit, FHWA will coordinate and insure that actions occur in accordance with the procedures as set out in the approved Region 3 NEPA/404 Process. The FHWA representative will attend the Resource Agency quarterly meetings to coordinate all necessary actions.

Prior to advertising a project for construction, DelDOT will update the environmental information to show that the project is cleared environmentally prior to advertising for bids.

### **SECTION 10. RIGHT-OF-WAY PROGRAM**

Requirements for right-of-way activities are contained in a combination of regulations as set out in both Title 23 and in the Uniform Act, 49 CFR Part 24. TEA-21 does have an affect on FHWA stewardship responsibilities; however, the Uniform Act requirements are generally unaffected.

The following sets out the right-of-way responsibilities under the provisions of TEA-21 and the Uniform Act Regulations (49 CFR Part 24):

1. Appraisal and Appraisal Review - The appraisal requirements of 49 CFR apply on all projects with Federal participation in any part of the project.
2. Acquisition - The acquisition requirements of 49 CFR apply on all projects with Federal participation in any part of the project. This includes acquisitions for which just compensation is determined through the functional replacement program.
3. Relocation Assistance - The relocation assistance requirements of 49 CFR apply to all projects with federal participation in any part of the project.

4. Property Management - Most property management requirements are contained in 23 CFR and apply only to NHS projects. Title 49 CFR Part 18.25 and 18.31 concerning program income and real property apply to all projects with federal-aid participation. DelDOT procedures will be consistent with these particular 49 CFR requirements.

All right-of-way activities will be accomplished in accordance with the approved DelDOT Right-of-Way Manual.

DelDOT will continue to prepare right-of-way certificates for all projects with Federal participation in any part of the project. Copies of the certificates will be a part of the PS&E submission on all NHS Oversight projects. Copies of certificates on all other projects do not have to be submitted to the Division Office, but must be maintained in the DelDOT files.

Adjustments or relocation of utilities and railroads will be in accordance with the procedures outlined in the DelDOT Utility Manual.

## SECTION 11. PROJECT DESIGN AND CONSTRUCTION

### A. Federal Oversight vs. State Administered:

1. FHWA and DelDOT have identified and agreed upon the Federal-aid projects programmed in the Capitol Transportation Program that will require Full Federal Oversight. See **Appendix A**. In general, the projects identified in **Appendix A** meet the following criteria:

	High Cost ( $\geq$ \$1,000,000)			Low Cost ( $<$ \$1,000,000)
	Construction/ Reconstruction	"3R"	Preventive Maintenance	
Interstate System	Oversight	Oversight	State Admin	State Admin
National Highway System	Oversight	State Admin	State Admin	State Admin
Non-NHS	State Admin	State Admin	State Admin	State Admin
All DelTrac Projects	Oversight	State Admin	State Admin	State Admin

2. All Title 23 requirements and non-Title 23 USC laws will apply to State Administered Interstate and NHS projects as if FHWA had full oversight.
3. Projects on highways interchanging with the Interstate, where a majority of the work is performed within the Interstate right-of-way, are considered to be "on the Interstate System".
4. Projects on highways interchanging or intersecting with an NHS route, where a majority of the work is performed within the NHS route right-of-way, are considered to be "on the NHS".
5. Non-NHS Bridges with a construction cost estimated to exceed \$10 Million or which are considered to be of complex construction will require FHWA design and technical oversight, but not PS&E submission.

### B. Project Design:

1. Standards - The current edition of the AASHTO publication *A Policy on Geometric Design of Highways and Streets* contains the minimum design standards for all projects on the National Highway System (NHS). For projects on the Interstate System, the design criteria contained in the current edition of *A Policy on Design Standards – Interstate System* will apply. Projects not on the NHS are to be designed, constructed, operated, and maintained in accordance with State laws, regulations, directives, safety standards, design standards, and construction standards as specified in 23 USC 109 (o).

Revised: January 2004

2. Value Engineering - The application of Value Engineering techniques will be required for all Federally funded projects on the NHS with an estimated construction cost of \$25 million or more. The principles and procedures for this requirement are outlined in 23 CFR Part 627.
3. Design-Build Projects – On December 10, 2002, the FHWA issued the Final Rule regarding the use of Design-Build contracts on Federal-aid projects. Any projects that DelDOT proposes to advance through Design-Build techniques must meet the requirements of the new regulations found in 23 CFR Part 636 and other affected parts including Part 627, Part 635, Part 637, and Part 710.
4. Design Exceptions - For all State Administered projects and for non-Federally funded NHS projects, DelDOT will review and approve all design exceptions. The approval will be made by the Chief Engineer or designee and documented in the project file. The basic procedures for justification and documentation will be the same as if FHWA oversight were involved. For all categories of projects where FHWA project review and oversight are required, FHWA will review and approve all design exceptions. This approval will be made by the Division Administrator or designee in accordance with the existing delegation of authority.

C. Project Construction:

1. Change Orders and Time Extensions - For all State Administered projects, the Chief Engineer or designee will review and approve change orders (including the extent of eligibility for Federal-aid participation) and concur in time extensions for DelDOT. Change order decisions will be made on the same basis as if FHWA was reviewing and approving the claim. For all categories of projects where FHWA project review and oversight are required, the Division Administrator or designee will review and approve the change orders for FHWA and concur in time extensions granted by DelDOT prior to execution of the change order under the procedures outlined in **Appendix B**.
2. Contract Claims and Settlements - For all State Administered projects, the Chief Engineer or designee will determine the eligibility and extent of Federal-aid participation in contract claims on a case-by-case basis. Claim decisions will be made on the same basis as if FHWA was reviewing and approving the claim. For all categories of projects where FHWA project review and oversight are required, the Division Administrator or designee will make this determination in accordance with current regulations.
3. Force Account Construction - For all State Administered projects, the Chief Engineer or designee will approve any determination of a more cost effective method than competitive bidding. For all categories of projects where FHWA project oversight is required, the Division Administrator or designee will make this determination in accordance with current regulations. The FHWA has determined that it is cost effective and in the public interest to incorporate highway signs manufactured by State forces into Federal-aid projects. Individual project approvals to this effect are therefore not required.
4. Specifications - Standard construction specifications and standard construction details will be approved by FHWA before being incorporated by reference. Special provisions will be approved as part of the PS&E process.

**SECTION 12. MAINTENANCE PROGRAM**

As a condition of receipt of Federal funds, DelDOT agrees to maintain or cause to be maintained the Federally funded roadways in the State of Delaware. The FHWA will bi-annually review road and bridge maintenance through a sampling of field observations and process reviews as necessary. Any specific instances of inadequate maintenance or concerns regarding DelDOT's overall maintenance program will be promptly brought to the attention of DelDOT by the FHWA.

**SECTION 13. BRIDGE PROGRAM**

DelDOT and the FHWA Delaware Division agree to operate under the following requirements as relates to bridge program activities. At the initiation of either DelDOT or FHWA at any time during the life of the agreement, assistance, advice, or review may be requested from the other on any matter covered by this agreement.

### National Bridge Inspection Standards (NBIS)

Title 23 Part 650 Subpart C covers the NBIS and shall form the basis for the bridge inspection program in Delaware. FHWA's Bridge Engineer will monitor the inspection program throughout the year, culminating in a formal review near year-end.

#### **A. *Highway Bridge Replacement and Rehabilitation Program***

Title 23 Part 650 Subpart D covers the HBRRP and shall form the basis for the HBRRP in Delaware. FHWA's Bridge Engineer will address program eligibility questions. DelDOT will make timely annual submissions for the National Bridge Inventory update and Bridge Construction Unit Costs.

#### **B. *Other Bridge Programs***

The FHWA and DelDOT will work cooperatively in developing candidates for the Discretionary Bridge Program, Innovative Bridge Research and Construction Program, and National Historic Covered Bridge Preservation Program.

## **SECTION 14. SAFETY PROGRAM**

DelDOT and the FHWA agree to operate under the following requirements as relates to safety activities. At the initiation of either DelDOT or FHWA at any time during the life of this agreement, assistance, advice, or review may be requested from the other on any matter covered by this agreement.

#### **A. Highway Safety Improvement Program (HSIP)**

Title 23, CFR, Part 924, contains the regulations for the planning, implementation, and evaluation of a State's HSIP. The HSIP Annual Evaluation Report is comprised of two highway safety construction programs - the Railroad-Highway Crossings and Hazard Elimination programs (23 U.S.C. 130 and 152 respectively). The HSIP is to be submitted to FHWA annually. Monitoring activities include assisting with the development of the planning component, evaluating the progress of implementing safety improvements and using process reviews for evaluation of the processes.

#### **B. Highway Safety Program (HSP)**

The authority for the Highway Safety Program is contained in Chapter 4 of Title 23, U.S.C. Title 23, CFR, Parts 1200, 1205 and 1206 contains the regulations governing the submission and approval of the Highway Safety Plan and prescribes procedures for implementing and managing highway safety programs. The monitoring duties and responsibilities include: (1) participating in the periodic management reviews of State operations conducted jointly with NHTSA; and (2) providing leadership to the State in developing the highway related aspects of the HSP. These activities will be accomplished by working with the Governor's Highway Safety Representative and DelDOT and NHTSA.

## **SECTION 15. INTELLIGENT TRANSPORTATION SYSTEMS**

DelDOT has placed high emphasis in this area with an aggressive plan to implement a statewide-integrated transportation management system (DelTrac). FHWA will provide technical and program assistance to DelDOT as necessary so that both agencies can fulfill their mutual interests in this area. FHWA will provide project level oversight of DelTrac projects as outlined in Section 11 of this document. FHWA will assist DelDOT in securing all



Revised: January 2004

available discretionary funding for these programs and help ensure that all special requirements associated with these funds are met.

## SECTION 16. FINANCIAL MANAGEMENT

For the most part, financial management emphasis has traditionally focused on: (1) conducting process reviews; (2) internal & external audit coverage; and, (3) routine monitoring of State central office operations.

### A. Obligation of Funds

1. In order to streamline the obligation process, on October 7, 1994 FHWA and DelDOT entered into an agreement executing a “blanket” hardcopy Project Agreement (form PR-2) for all Federally funded projects. By execution of this blanket document it was agreed that DelDOT would abide by all the conditions outlined in the PR-2 and PR-2A for future authorizations and that these authorizations would be based on DelDOT’s “FS-1” authorization form. The terms of this agreement were reiterated in a March 26, 1999 letter from DelDOT. The 1994 agreement will be updated if any conditions in the PR-2 or PR-2A change.
2. For State Administered projects as defined in Sections 11, FHWA will electronically obligate funds on a project-by-project basis.
3. For Oversight projects, as defined in Section 11, that require full FHWA oversight the Division Administrator (or designee) must sign a hardcopy of form FS-1 prior to obligation of funds. DelDOT will receive the original signed FS-1 and a copy will be retained by FHWA.
4. For certain Federal-aid Programs the Division Administrator (or designee) must sign a hardcopy of form FS-1 prior to obligation of funds. DelDOT will receive the original signed FS-1 and a copy will be retained by FHWA. These Programs include:
  - a. Planning activities as outlined in Section 6.
  - b. Research activities as outlined in Section 7.
  - c. DBE and OJT Support Services activities.
  - d. Federally funded Training activities.
  - e. Bridge Management activities.

### B. Financial Management Reviews

The FHWA Financial Manager, in conjunction with appropriate DelDOT financial management personnel, conduct quality financial management initiatives. The purpose of these reviews is to develop recommendations to ensure that identified problem areas receive appropriate management level attention.

In addition to these reviews, financial management stewardship will also be exercised when combined with Division Office and State multi-disciplined teams conducting various reviews.

### C. Audit Coverage

Any State highway agency receiving Federal-aid highway funds must ensure that its operations are audited in accordance with various Federal statutes and administrative regulations. The following criteria affect audits of the Federal-aid highway program.

1. 23 CFR Part 12, Single Audit Requirements. The purpose of this CFR is to implement the requirements of the Single Audit Act of 1984 (Pub. L. 98-502, 98 Stat. 2327).
2. 49 CFR Part 90, Audits of State and Local Governments, Appendix A. The purpose of this regulation is also to implement the Single Audit Act of 1984 (Pub. L. 98-502), 31 U.S.C. 7501). (Appendix A of 49 CFR Part 90 is the same as OMB Circular A-128.)

3. 49 CFR Part 18A, Uniform Administrative Requirements for Grants and Cooperative Agreements (also known as the “Common Rule”). The following Subparts also govern audits of the Federal-aid highway program: A - General; B - Pre-Award Requirements; C - Post-Award Requirements; and D - After-the-Grant Requirements.

The financial management stewardship role for audit coverage is to work primarily with the DelDOT to ensure that required program audits are undertaken. With an active DelDOT audit program and annual A-128 audits performed by the office of Auditor of Accounts, stewardship can include such activities as interpreting and applying Federal and State directives, coordinating DelDOT audit and FHWA financial management review plans, directly participating in DelDOT audits, maintaining an oversight of the disposition of audit findings & recommendation, developing specific FHWA audit considerations for DelDOT auditors, disseminating audit related information and conducting reviews of elected DelDOT audit programs, etc.

D. Toll Agreements

DelDOT and FHWA have entered into toll agreements authorized by 23 U.S.C. 129(a) for I-95 (Delaware Turnpike) and the US-13/US-113 Relief Route (SR-1). DelDOT will provide annual certifications that it is complying with the requirements set forth in these agreements.

## SECTION 17. LOCAL PUBLIC AGENCIES

In some cases Federal-aid funds that are received by DelDOT are administered by other local public agencies (LPA) such as the Delaware River and Bay Authority (DRBA), the Department of Natural Resources and Environmental Control (DNREC), or local municipalities.

As the recipient of the Federal funds, DelDOT is ultimately responsible for establishing procedures that ensure Federal requirements are met for each of these programs. For each project that proceeds to the construction phase, DelDOT will ensure that a full-time public employee of either DelDOT or the LPA is placed in responsible charge of the project. This individual may have multiple assignments. These special programs will be administered as follows:

A. Transportation Enhancement (TE) Program

Federal funds are provided on an annual basis, based upon formula, and made available for eligible projects. These projects may be administered by either DelDOT, or any one of a number of State or local public agencies. TE projects are initiated by DelDOT, and funding activities are programmed in a similar manner to most other DelDOT projects. DelDOT is responsible for authorizing all appropriate payments.

B. Recreational Trails Program

Federal funds are provided on an annual basis, based upon formula, and made available to the appropriate State designated agency. DelDOT will request the authorization prior to FHWA approving the program. In Delaware, DNREC has been designated by the Governor as the sponsoring agency. Each year DNREC develops a work plan, which is submitted to the FHWA for approval from both an eligible activity and environmental perspective. The DelDOT Financial Management and Budget Section is copied in on all correspondence. At such time as the annual DNREC work plan is approved, the DelDOT Financial Management and Budget Section will prepare an FS-1 and obligate funding. DelDOT or DNREC will also advise FHWA of the individual in responsible charge of the project. DelDOT will not make payment until the FHWA has approved completed work activities.

C. Ferry Boat Discretionary Program



## APPENDIX C – FEDERAL HIGHWAY ADMINISTRATION

Revised: January 2004

Federal funds are provided on a competitive basis annually. In Delaware, DRBA is the most likely sponsor of eligible projects. If funding is awarded in any given year, the financial and contract administration activities will be handled in a similar way to the Recreational Trails Program.

Effective this date, the above provisions amend and supersede all prior Stewardship Agreements. This Agreement will be reviewed annually to determine if changes are necessary.

Effective date: 3/12/03

/s/ Nathan Hayward III  
Nathan Hayward III  
Secretary,  
Delaware Department of Transportation

/s/ Thomas D. Myers  
Thomas D. Myers  
Division Administrator,  
FHWA Delaware Division

**APPENDIX A**

FHWA Oversight Project List

# APPENDIX C – FEDERAL HIGHWAY ADMINISTRATION

Revised: January 2004

## FY 2003 FEDERAL HIGHWAY ADMINISTRATION FULL OVERSIGHT PROJECTS (identified in bold type)

STATE PROJECT NUMBER	PROG. CODE	FUND NAME	PROJECT TITLE	FUNDS TO BE OBLIGATED	FHWA CONTACT
	<b>Q010</b>	<b>INTERSTATE MAINTENANCE</b>	<b>I- 95, 4TH STREET TO US202</b>	<b>2,475.0</b>	<b>Wilgus</b>
	<b>Q010</b>	<b>INTERSTATE MAINTENANCE</b>	<b>I-95, MD STATE LINE TO SR1</b>	<b>1,600.0</b>	<b>Wilgus</b>
<b>87-110-01</b>	<b>Q050</b>	<b>NATIONAL HIGHWAY SYSTEM</b>	<b>SR 1, S OF DOVER TO C&amp;D CANAL</b>	<b>570.0</b>	<b>Montag</b>
	<b>Q050</b>	<b>NATIONAL HIGHWAY SYSTEM</b>	<b>SR 1,DEWEY BEACH TO LEWES &amp; REHOB.CANAL (3R+)</b>	<b>6,243.2</b>	<b>Montag</b>
	<b>Q050</b>	<b>NATIONAL HIGHWAY SYSTEM</b>	<b>SR 1, DOVER TOLL PLAZA MODIFICATIONS</b>	<b>6,400.0</b>	<b>Wilgus</b>
21-074-01	Q100	BRIDGE REHABILITATION	BR 1 ON RISING SUN RD OVER BRANDYWINE CREEK 240.0		
99-071-10	Q100	BRIDGE REHABILITATION	SR141, BR680,US 13 & SR141	600.0	
21-072-01	Q110	BRIDGE REHABILITATION	BR210A ON K208 OVER SHADES BRANCH	556.0	
<b>94-074-11</b>	<b>Q120</b>	<b>BRIDGE REHABILITATION</b>	<b>BR813 PAINTING, I-495</b>	<b>5,400.0</b>	<b>Hake</b>
	Q120	BRIDGE REHABILITATION	BRIDGE DESIGN NEW BRIDGES	1,200.0	
	<b>Q120</b>	<b>BRIDGE REHABILITATION</b>	<b>BRIDGE INSPECTION &amp; MANAGEMENT</b>	<b>1,680.0</b>	<b>Hake</b>
	Q120	BRIDGE REHABILITATION	BRIDGE PAINTING	1,600.0	
	Q120	BRIDGE REHABILITATION	BRIDGE SCOUR	240.0	
	Q120	BRIDGE REHABILITATION	BRIDGE PRESERVATION PROGRAM	2,569.6	
	Q200	URBAN < 200,000 POPULATION	FORREST AVE/KENTON RD,SAFETY	45.9	
20-045-01	Q200	URBAN < 200,000 POPULATION	WALKER RD, KENTON RD TO SAULSBURY RD, SAFETY	2,052.0	
20-015-01	Q210	OPTIONAL SAFETY	IRON HILL BIKEWAY	651.2	
	Q210	OPTIONAL SAFETY	SAFETY IMPROVEMENTS	795.2	
99-007-01	Q210	OPTIONAL SAFETY	SAFETY, SR141, DELAWARE AVE TO JAY DR	834.3	
22-119-02	Q210	OPTIONAL SAFETY	SONGSMITH DR SIDEWALKS,MCMULLEN CIR TO SMALLEYS	507.2	
	Q210	OPTIONAL SAFETY	US 40 DEVELOPMENT & PRELIMINARY ENGINEERING	432.8	
	Q210	OPTIONAL SAFETY	US 40, PEDESTRIAN CONNECTIONS TO BUS STOPS	180.0	
21-009-01	Q210	OPTIONAL SAFETY	US113 @ SEABURY AVE, HSIP PROJECT	75.6	
	Q220	TRANSPORTATION ENHANCEMENTS	TRANSPORTATION ENHANCEMENTS	5,512.0	
22-116-01	Q230	URBAN >200,000 POPUATION	CHURCHMAN'S AREAWIDE SIDEWALKS2,	400.0	
	Q230	URBAN >200,000 POPUATION	CHURCHMANS' CROSSING CORRIDOR IMPROVEMENTS	7,120.3	
	Q230	URBAN >200,000 POPUATION	REYBOLD RD, SR 72 TO CHURCH RD	2,016.8	
21-011-03	Q230	URBAN >200,000 POPUATION	SR 2/SR141, PRICES CORNER PEDESTRIAN CROSSING	464.2	
21-061-01	Q230	URBAN >200,000 POPUATION	SR273 TO JAY DRIVE	6,400.0	
	Q230	URBAN >200,000 POPUATIONU	S 40, EDEN SQUARE CONNECTOR	600.0	
93-012-01	Q240	STATE FLEXIBILITY	CRAWFORD CARROLL AVENUE SCARBOROUGH ACCESS RD)	2,953.3	
	Q240	STATE FLEXIBILITY	INTERSECTION IMPROVEMENTS(STATEWIDE)	400.0	
	Q240	STATE FLEXIBILITY	NON-MOTORIZED TRANSPORTATION PROJECTS	136.8	
21-011-01	Q240	STATE FLEXIBILITY	SR 72, PAPER MILL BIKE LANES	1,357.6	
	Q240	STATE FLEXIBILITY	PAVEMENT REHABILITATIONS	8,517.6	
	Q240	STATE FLEXIBILITY	PROGRAM DEVELOPMENT	3,507.0	
	Q240	STATE FLEXIBILITY	SIGN STRUCTURE PROGRAM	483.2	

## APPENDIX C – FEDERAL HIGHWAY ADMINISTRATION

Revised: January 2004

20-015-02	Q240	STATE FLEXIBILITY	SR 4, CHRISTINA PARKWAY/BIKEPATH	130.4	
20-111-01	Q240	STATE FLEXIBILITY	SR 4/SR 7 INTERSECTION IMPROVEMENTS	768.0	
20-015-03	Q240	STATE FLEXIBILITY	SR 72 BIKEWAY EXTENSION	432.0	
	<b>Q240</b>	<b>STATE FLEXIBILITY</b>	<b>SR141/SR100 INTERSECTION IMPROVEMENTS (non-NHS)</b>	<b>5,236.0</b>	<b>Montag</b>
22-119-04	Q240	STATE FLEXIBILITY	US 40/RUE MADORA	267.2	
	Q240	STATE FLEXIBILITY	US 40/GOVERNORS SQUARE/GLENDALE CONNECTOR	412.8	
20-013-05	Q250	POPULATION AREAS <5000	DEL TECH GEORGETOWN BIKE-PED IMPROVEMENTS	688.8	
21-045-01	Q250	POPULATION AREAS <5000	HARRINGTON TRUCK ROUTE	440.0	
91-003-01	Q250	POPULATION AREAS <5000	SR 24 & SR 5 INTERSECTION IMPROVEMENT	1,195.2	
21-112-04	Q250	POPULATION AREAS <5000	SR 26 DETOUR RT, SR 17 TO ASSAWOMAN CANAL	7,500.0	
	Q270	HAZARD ELIMINATION	RAIL CROSSING SAFETY	562.5	
	Q400	CONGESTION MITIGATION	BUS STOP IMPROVEMENTS	360.0	
	<b>Q400</b>	<b>CONGESTION MITIGATION</b>	<b>DELTRAC - STATEWIDE (DISCRETIONARY)</b>	<b>1,000.0</b>	<b>Kennedy</b>
	Q400	CONGESTION MITIGATION	PARK & RIDE LOTS	240.0	
	Q400	CONGESTION MITIGATION	WILMINGTON INITIATIVES	1,700.0	
TOTAL PLANNED OBLIGATIONS				99,749.7	

### FY 2004 FEDERAL HIGHWAY ADMINISTRATION FULL OVERSIGHT PROJECTS (identified in bold type)

STATE PROJECT NUMBER	PROG. CODE	FUND NAME	PROJECT TITLE	FUNDS TO BE OBLIGATED	FHWA CONTACT
	Q010	INTERSTATE MAINTAINANCE	CHURCHMAN'S CROSSING CORRIDOR IMPROVEMENTS	1,200.0	
<b>87-110-01</b>	<b>Q050</b>	<b>NATIONAL HIGHWAY SYSTEM</b>	<b>SR 1, S OF DOVER TO C&amp;D CANAL</b>	<b>225.0</b>	<b>Montag</b>
	<b>Q050</b>	<b>NATIONAL HIGHWAY SYSTEM</b>	<b>TYLER MCCONNELL BRIDGE (Non-NHS)</b>	<b>9,000.0</b>	<b>Hake</b>
	Q050	NATIONAL HIGHWAY SYSTEM	US 13/S468	216.8	
21-074-01	Q100	BRIDGE REHABILITATION	BR 1 & 1A ON RISING SUN LANE	560.0	
22-071-01	Q100	BRIDGE REHABILITATION	BR 68 & BR 2 ON ROCKLAND RD	805.9	
22-074-02	Q100	BRIDGE REHABILITATION	BR158 ON OLD CAPITAL TRAIL & BR 193	645.1	
22-074-01	Q100	BRIDGE REHABILITATION	BR160 ON MARYLAND AVE	786.0	
22-071-04	Q100	BRIDGE REHABILITATION	BR307 ON SR 9 OVER GETTY PIPE & BR311 ON SR 72	800.0	
22-074-05	Q100	BRIDGE REHABILITATION	BR506 CHESAPEAKE CITY RD	552.8	
21-074-07	Q100	BRIDGE REHABILITATION	BR688 ON SOUTH MARKET ST (3R)	4,320.0	
<b>22-074-09</b>	<b>Q100</b>	<b>BRIDGE REHABILITATION</b>	<b>BR715, 715A &amp; 715D @ I- 95/SR273 INTERCHANGE</b>	<b>3,584.0</b>	<b>Hake</b>
22-075-02	Q110	BRIDGE REHABILITATION	BR 10A ON SR 6 OVER DUCK CREEK, WOODLAND BEACH	652.0	
	Q120	BRIDGE REHABILITATION	BRIDGE PAINTING	1,600.0	
	Q120	BRIDGE REHABILITATION	BRIDGE SCOUR	240.0	
	Q120	BRIDGE REHABILITATION	BRIDGES (STRUCTURALLY DEFICIENT)	225.4	
	Q120	BRIDGE REHABILITATION	BRIDGES DESIGN NEW	1,200.0	
20-045-02	Q200	URBAN < 200,000 POPULATION	GOVERNOR'S AVE (K 3), WEBBS LANE TO WATER ST	3,705.6	
	Q200	URBAN < 200,000 POPULATION	US 13, TOWNSEND BLVD TO DSU	675.6	

# APPENDIX C – FEDERAL HIGHWAY ADMINISTRATION

Revised: January 2004

	Q210	OPTIONAL SAFETY	HARVEY RD TRAFFIC CALMING	680.0	
	Q210	OPTIONAL SAFETY	TRAFFIC CALMING	320.0	
	Q210	OPTIONAL SAFETY	WEST RAILROAD AVE, SOUTHERN BLVD	189.6	
	Q210	OPTIONAL SAFETY	WEST RAILROAD AVE/CAMDEN WYOMING AVETO FRONT ST	348.0	
	Q220	TRANSPORTATION ENHANCEMENTS	TRANSPORTATION ENHANCEMENTS	3,105.0	
99-071-08	Q230	URBAN >200,000 POPUATION	BR 1 B ON KENNETT PIKE	632.0	
20-044-01	Q230	URBAN >200,000 POPUATION	BRACKENVILLE RD, SR48 TO BARLEY MILL RD	1,452.8	
	Q240	STATE FLEXIBILITY	CHOPTANK RD, SR 15 FROM N455 TO N285	1,806.4	
	Q240	STATE FLEXIBILITY	INTERSECTIONS	400.0	
22-124-02	Q240	STATE FLEXIBILITY	LAUREL 5 POINTS	338.4	
22-124-04	Q240	STATE FLEXIBILITY	LAUREL INTERSECTIONS	534.4	
21-046-01	Q240	STATE FLEXIBILITY	MILTON TRUCK ROUTE	3,318.2	
	Q240	STATE FLEXIBILITY	NASSAU BIKE/PED CONNECTOR	800.0	
	Q240	STATE FLEXIBILITY	NON-MOTORIZED TRANSPORTATION	308.8	
	Q240	STATE FLEXIBILITY	PAVEMENT REHABILITATIONS	8,517.6	
	Q240	STATE FLEXIBILITY	PROGRAM DEVELOPMENT	3,484.0	
	Q240	STATE FLEXIBILITY	SEAFORD SERVICE ROADS	1,360.0	
	Q240	STATE FLEXIBILITY	SIGN STRUCTURE PROGRAM	483.2	
	Q240	STATE FLEXIBILITY	SR 2/HARMONY RD	1,200.0	
21-042-01	Q240	STATE FLEXIBILITY	SR 15/K407/K447,MILFORD	1,590.4	
20-007-02	Q240	STATE FLEXIBILITY	SR 41, (LANCASTER PIKE)YORKLYN RD TO VALLEY RD	4,320.0	
	Q240	STATE FLEXIBILITY	SR273/CHAPMAN RD	1,600.0	
	Q240	STATE FLEXIBILITY	SUSSEX EAST WEST CORRIDOR	3,040.0	
22-042-01	Q240	STATE FLEXIBILITY	US 13 & PEACH BASKET RD	241.6	
	Q240	STATE FLEXIBILITY	US 40 SIDEPATHS, CHURCH RD TO SR 1	2,098.4	
	Q240	STATE FLEXIBILITY	US 40 SIDEPATHS, SALEM CHURCH RD TO CHURCH RD	716.0	
22-119-05	Q240	STATE FLEXIBILITY	US 40 WILTON BOULVARD/APPLEBY RD SIDEWALKS	1,712.8	
22-011-04	Q240	STATE FLEXIBILITY	WASHINGTON ST SIDEWALKS&INTERSECTION	120.0	
	Q240	STATE FLEXIBILITY	WILMINGTON, 4TH ST, WALNUT ST TO I-95	6,880.0	
	<b>Q250</b>	<b>POPULATION AREAS &lt;5000</b>	<b>SOUTHERN NEW CASTLE COUNTY (US 301)</b>	<b>12,753.6</b>	<b>Montag</b>
	Q270	HAZARD ELIMINATION	RAIL CROSSING - SAFETY	562.5	
	<b>Q400</b>	<b>CONGESTION MITIGATION</b>	<b>DELTRAC - DELDOT RADIO/AVL</b>	<b>396.0</b>	<b>Kennedy</b>
	<b>Q400</b>	<b>CONGESTION MITIGATION</b>	<b>DELTRAC - KENT COUNTY</b>	<b>454.7</b>	<b>Kennedy</b>
	<b>Q400</b>	<b>CONGESTION MITIGATION</b>	<b>DELTRAC - NEW CASTLE COUNTY</b>	<b>1,026.7</b>	<b>Kennedy</b>
	<b>Q400</b>	<b>CONGESTION MITIGATION</b>	<b>DELTRAC - SUSSEX COUNTY</b>	<b>484.0</b>	<b>Kennedy</b>
	<b>Q400</b>	<b>CONGESTION MITIGATION</b>	<b>DELTRAC- TMC STATEWIDE</b>	<b>440.0</b>	<b>Kennedy</b>
	Q400	CONGESTION MITIGATION	PARK & RIDE LOTS	240.0	
	Q400	CONGESTION MITIGATION	SR273/HARMONY RD	560.0	
			TOTAL PLANNED OBLIGATIONS	99,938.1	

# APPENDIX C – FEDERAL HIGHWAY ADMINISTRATION

Revised: January 2004

## FY 2005 FEDERAL HIGHWAY ADMINISTRATION FULL OVERSIGHT PROJECTS (identified in bold type)

STATE PROJECT NUMBER	PROG. CODE	FUND NAME	PROJECT TITLE	FUNDS TO BE OBLIGATED	FHWA CONTACT
22-074-08	Q010	INTERSTATE MAINTENANCE	BR708, 709 & BR711 - I-95	3,124.0	Hake
22-074-10	Q010	INTERSTATE MAINTENANCE	BR746 ON I- 95 OVER LITTLE MILL CREEK	1,816.0	Hake
22-071-05	Q010	INTERSTATE MAINTENANCE	BR806, 807 & 808 ON I-495 OVER US 13	2,560.0	Hake
	Q050	NATIONAL HIGHWAY SYSTEM	SR 1 & REHOBOTH AVE INTERSECT/NB THIRD LANE	6,360.0	Wilgus
22-125-01	Q050	NATIONAL HIGHWAY SYSTEM	SR 1 SOUTHBOUND THIRD LANE	6,597.1	Wilgus
20-013-04	Q050	NATIONAL HIGHWAY SYSTEM	SR 1 THROUGH DEWEY BEACH,EXT	2,212.0	
87-110-01	Q050	NATIONAL HIGHWAY SYSTEM	SR 1, S OF DOVER TO CHESAPEAK & DELAWARE CANAL	30.0	Montag
	Q120	BRIDGE REHABILITATION	BRIDGE DESIGN NEW	1,200.0	
	Q120	BRIDGE REHABILITATION	BRIDGE INSPECTION & MANAGEMENT	1,680.0	Hake
	Q120	BRIDGE REHABILITATION	BRIDGE PAINTING	1,600.0	
	Q120	BRIDGE REHABILITATION	BRIDGE SCOUR	240.0	
	Q120	BRIDGE REHABILITATION	BRIDGE STRUCTURALLY DEFICIENT	6,446.7	
	Q210	OPTIONAL SAFETY	OLD BALITMORE PIKE BIKE PATH	2,090.4	
	Q210	OPTIONAL SAFETY	TRAFFIC CALMING - STATEWIDE	320.0	
	Q220	TRANSPORTATION ENHANCEMENTS	TRANSPORTATION ENHANCEMENTS	3,105.0	
	Q230	URBAN >200,000 POPUATION	CHURCHMANS CROSSING	1,706.7	
	Q230	URBAN >200,000 POPUATIONS	RTE 141, SPUR RD (Blue Ball)	8,561.5	Montag
22-111-02	Q240	STATE FLEXIBILITY	AIRPORT RD/CHURCHMANS RD INTERSECTION	7,358.4	
22-124-06	Q240	STATE FLEXIBILITY	BRIDGEVILLE SERVICE ROADS	7,371.1	
	Q240	STATE FLEXIBILITY	CHOPTANK RD, SR 15 FROM N455 TO N285	4,368.0	
	Q240	STATE FLEXIBILITY	DAGSBORO INTERSECTIONS	880.0	
21-045-01	Q240	STATE FLEXIBILITY	HARRINGTON TRUCK ROUTE	5,240.0	
	Q240	STATE FLEXIBILITY	INTERSECTION IMPROVEMENTS STATEWIDE	400.0	
22-011-03	Q240	STATE FLEXIBILITY	LIMESTONE RD, GREENWOOD TO ARUNDEL	264.0	
	Q240	STATE FLEXIBILITY	MILL CREEK RD/MCKENNAN'S CHURCH RD	800.0	
	Q240	STATE FLEXIBILITY	PAVEMENT REHABILITATION	8,517.6	
	Q240	STATE FLEXIBILITY	PROGRAM DEVELOPMENT	3,600.0	
	Q240	STATE FLEXIBILITY	SIGN STRUCTURE PROGRAM	483.2	
	Q240	STATE FLEXIBILITY	SOUTHERN NEW CASTLE COUNTY (US 301)	8,416.0	Montag
	Q240	STATE FLEXIBILITY	SR 4/HARMONY ROAD	2,000.0	
	Q240	STATE FLEXIBILITY	SR 26, ATLANTIC AVE MAIN LINE IMPROVEMENTS	8,880.0	
	Q240	STATE FLEXIBILITY	SR 72/DE LAWS RD	441.6	
	Q240	STATE FLEXIBILITY	SR 9/3RD ST, NEW CASTLE INT IMPROVEMENTS	640.0	
	Q240	STATE FLEXIBILITY	US 40 /SR 72	689.6	
	Q240	STATE FLEXIBILITY	US 40 DEVELOPMENT & PRELIMINARY ENGINEERING	510.7	
	Q240	STATE FLEXIBILITY	US 40 SIDEPATHS, SR 72 TO SALEM CHURCH RD	1,509.6	
	Q240	STATE FLEXIBILITY	US202, BROOM ST TO I- 95 ("Boulevard") 3R+	3,056.8	Wilgus

## APPENDIX C – FEDERAL HIGHWAY ADMINISTRATION

Revised: January 2004

	<b>Q240</b>	<b>STATE FLEXIBILITY</b>	<b>US202, INDEPENDENCE MALL TO N OF POWDER MILL RD</b>	<b>10,371.7</b>	<b>Montag</b>
22-119-01	Q240	STATE FLEXIBILITY	WALTHER RD SIDEWALKS	1,308.0	
22-012-01	Q240	STATE FLEXIBILITY	WEBBS LANE, NEW BURTON RD TO US 13A	328.8	
	Q240	STATE FLEXIBILITY	WILMINGTON BIKE ROUTE	480.0	
	Q250	POPULATION AREAS <5000	SUSSEX WEST/EAST	4,000.0	
	Q270	HAZARD ELIMINATION	RAIL CROSSING SAFETY	562.5	
	Q400	CONGESTION MITIGATION	BUS STOP IMPROVEMENTS	172.0	
	<b>Q400</b>	<b>CONGESTION MITIGATION</b>	<b>DELTRAC - TMC - STATEWIDE</b>	<b>3,399.2</b>	<b>Kennedy</b>
	Q400	CONGESTION MITIGATION	PARK AND RIDE	320.0	
	Q400	CONGESTION MITIGATION	SR 4/SR 7	1,200.0	
TOTAL PLANNED OBLIGATIONS				137,218.2	

The project shown in Bold Type will require full FHWA Oversight as defined in the current DelDOT/FHWA Stewardship Agreement.

Concur:

/s/ Carolann Wicks  
DelDOT Chief Engineer

January 13, 2003  
Date

/s/ Thomas D. Myers  
FHWA Division Administrator

January 13, 2003  
Date

**APPENDIX B**

Memorandum Of Agreement on Contract Changes



## APPENDIX C – FEDERAL HIGHWAY ADMINISTRATION

Revised: January 2004

### MEMORANDUM OF AGREEMENT CONSTRUCTION CONTRACT CHANGE APPROVAL REQUIREMENTS FOR FEDERAL-AID OVERSIGHT PROJECTS

#### BACKGROUND

Federal regulation at 23 CFR Part 635 CONSTRUCTION AND MAINTENANCE, and specifically Section 635.120 Changes and Extra Work and Section 635.121 Contract Time and Contract Time Extensions contain the governing criteria involving change approval requirements. All changes to Federal-aid construction contracts (both participating and non-participating) ultimately require formal approval from the FHWA Division Office. Major changes, as further defined below, must have formal approval by FHWA **in advance** of the effective date of the change to preserve the eligibility for Federal-aid funding. This Memorandum of Agreement (MOA) sets out the guidelines for this process.

#### DEFINITIONS

**Change:** A modification, deletion, or addition of work to a project, with a uniquely defined scope of work, which differs from the original project scope or another change. A change may be a new negotiated contract item or items, an increase or decrease to the original quantity of a single or multiple contract unit price items, work performed by force account, or a change in contract time.

**CONTRACT CHANGE ORDER:** A BINDING CONTRACTUAL DOCUMENT BETWEEN THE CONTRACTOR AND DELDOT, DESCRIBING EITHER A SINGLE CHANGE OR MULTIPLE CHANGES.

**Effective Date:** The date of agreement to a change between the contractor and DelDOT. This date of agreement for the change is the earlier of either a verbal notice to proceed or an executed written agreement.

**Formal Approval:** Approval from FHWA of a contract change. Approval will normally be written and take the form of a stamp of approval on a request from DelDOT containing supporting documentation for major changes and a stamp of approval on the executed Contract Change Order for non-major changes. In cases where formal approval must be expedited, formal approval may also be provided by e-mail or be provided on the job-site in the form of a signed field memo. Unless a major change qualifies as an emergency or unusual condition (see “Exception” under Procedure for Approval of Changes), formal approval is not provided verbally.

**Major Change:** A change that significantly affects the cost of the project to the Federal Government or alters the termini, character or scope of the work. For the purpose of this memorandum of agreement, “major changes” are defined in Attachment 1.

**Non-Major Change:** A changes that does not meet the definition of a major change. (Non-major changes still require formal FHWA approval, but such approval may be provided **after** the effective date of the change.)

#### PROCEDURE FOR APPROVAL OF CHANGES

##### Major Changes:

## APPENDIX C – FEDERAL HIGHWAY ADMINISTRATION

Revised: January 2004

1. DelDOT determines the change to be a *Major Change* as defined in this MOA.
2. After negotiation of the *Major Change* is completed with the contractor, but prior to the *effective date* of the *major change*, DelDOT submits a request for *formal approval* to FHWA with supporting documentation detailing the scope and cost of the *major change*. This documentation will include:
  - a. Description of the change
  - b. Justification of the need for the change
  - c. CPM analysis if appropriate
  - d. Adjustment to contract time
  - e. Unit item estimated quantities and prices
  - f. Total estimated cost of the change
3. FHWA gives *formal approval* to the *major change* within three (3) workdays after all satisfactory documentation is received. This is formal approval for the *major change* as required by 23 CFR Part 635. Upon *formal approval* by FHWA, DelDOT may give verbal notice to proceed or execute a written agreement for the change with the contractor.
4. DelDOT provides a copy of the executed *Contract Change Order* to FHWA, usually with the monthly progress payment. The executed *Contract Change Order* is reviewed by FHWA for consistency with prior approvals, approved and returned to DelDOT for their records.
5. Exception: In the case of a *major change* resulting from an emergency or unusual condition, where the safety of the traveling public or project personnel is jeopardized or where the highway facility is imperiled by climate or other outside forces, FHWA may provide tentative advance approval orally to such changes and ratify such approval with *formal approval* as soon as practicable thereafter.

**Note:** In order to expedite the *formal approval* process for a *major change*, DelDOT should maintain close coordination with the respective FHWA project engineer, preferably notifying FHWA when a *change* is being considered to obtain concurrence in the eligibility of the *change*. When necessary, if the appropriate project engineer is unavailable, *formal approval* can be obtained from another FHWA engineer. See FHWA Contact Information in Attachment 1.

### **Non-Major Changes:**

1. DelDOT determines the *change* to be a *non-major change* as defined in this MOA.
2. DelDOT negotiates the *non-major change* with the contractor, gives verbal notice to proceed or executes a written agreement for the *change* with the contractor, and proceeds with the work.
3. DelDOT provides a copy of the executed *Contract Change Order* to FHWA for *formal approval*, usually with the monthly progress payment. The executed *Contract Change Order* is approved and returned to DelDOT for their records. This is formal approval for the *non-major change* as required by 23 CFR Part 635.

Signed 2/23/2003  
Carolann Wicks Date  
Chief Engineer, DelDOT

Signed 2/26/2003  
Thomas D. Myers Date  
Division Administrator, FHWA

## APPENDIX C – FEDERAL HIGHWAY ADMINISTRATION

Revised: January 2004

### **Attachment 1**

#### **MAJOR CHANGES**

1. Any work outside the project limits of construction.
2. Any change in contract time, including accelerations, extensions, and suspensions.
3. Any change that conflicts with the Delaware Standard Specifications or Standard Drawings.
4. Any change to geometric design or clear zone.
5. Any change to the permanent pavement structure or type.
6. Any change to the design of bridges, box culverts, retaining walls, or other structures, which affect hydraulic or structural load capacity, streambed alignment, etc.
7. Any change in access provisions.
8. Any change that alters environmental impact mitigation measures.
9. Any change that alters safety hardware such as guardrails, bridge rails, breakaway sign supports, etc. and/or changes to Maintenance of Traffic items which deviate from DelDOT's Traffic Controls Manual.
10. Any change resulting in an increase or decrease in the cost of an individual contract unit price item by \$50,000 or more.
11. Any change resulting in a total increase or decrease in cost of \$100,000 or more.

#### **FHWA CONTACT INFORMATION**

Matthew Hake (Bridge Engineer)	734-1657
Dan Montag (Construction & Materials Engineer)	734-1719
Lance Wilgus (Transportation Engineer)	734-2745
Patrick Kennedy (Traffic Operations & Safety Engineer)	734-5326
Mike Graf (Assistant Division Administrator)	734-1946

#### **GENERAL**

FHWA Main Line	734-5323
FHWA Fax	734-3066

**APPENDIX C**

Process Review/Product Evaluation Guidelines

## APPENDIX C – FEDERAL HIGHWAY ADMINISTRATION

Revised: January 2004

### **Delaware Division Process Review/Product Evaluation (PR/PE) Guidelines**

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#### **The Delaware Division PR/PE Program**

The PR/PE program is an integral part of the Division's oversight of the Federal-aid Program. It is a quality improvement oriented review of a predetermined subject area by an independent team of Federal Highway Administration (FHWA) and Delaware Department of Transportation (DelDOT) representatives. The FHWA and DelDOT management meet annually during the 4th quarter of the fiscal year to jointly determine the topics for the coming year's reviews. The topics will include subject areas that the FHWA and DelDOT determines to have the potential for process improvement as well as enhanced product quality. It is anticipated that 2-4 reviews will be performed each year.

#### **The Team**

The team will consist of 3-5 members representing the FHWA, DelDOT, and other interested parties as appropriate that can offer an independent evaluation of the review topic. In most cases it is beneficial to include team members who, while they have some knowledge of the review topic, are not directly involved in the process or program to be reviewed. This will ensure an independent and unbiased evaluation. The team is expected to use peer review techniques to identify opportunities to improve processes or to evaluate products and is also expected to operate by consensus in determining and presenting findings. Each team member will have an equal opportunity to express points of view regarding observations and recommendation and it is expected that the final product by the team will result from a consensus of all team members.

#### **The Review**

A "team leader" should be selected who will serve as the spokesperson and point of contact for the team following completion of the review. The Delaware Division team member will typically serve as the team leader and will be responsible for assuring that the team has a clearly and appropriately defined scope and for facilitating the logistics of the review. It is recommended that the team collectively develop a review work plan sufficiently in advance of the scheduled review to allow the team to arrange interviews or meeting rooms as necessary. An excellent reference guide in preparing a work plan and conducting a process review is FHWA's "The Role and Use of Process Review Techniques in Program Monitoring".

#### **The Close-Out Meetings**

Following the completion of the review and the development of a Draft Report, a closeout meeting will be held with Delaware Division and DelDOT management. During the closeout meeting the review team should be prepared to distribute to the Chief Engineer and the Division Administrator a Draft Report and to summarize the contacts, observations, and recommendations that were made during the review. Any observations that are not process related or are outside the scope or intent of the review, but that warrant individual attention by FHWA, should be presented separately by the team to the Delaware Division, ie. not during the closeout meeting. The Division Office will address these types of issues individually and they should not be included in the final report by the team. It is expected that all recommendations will be presented during the closeout meeting in order to make FHWA and DelDOT management aware of the results of the review and to afford them a chance to comment. Additional recommendations should not be added to the final report that were not discussed during the closeout meeting. Within 10 days from the review closeout meeting, the Division Office and DelDOT management should provide the

## APPENDIX C – FEDERAL HIGHWAY ADMINISTRATION

Revised: January 2004

team with written comments related to the Draft Report. Within 10 days from receipt of these comments, the team should complete a Final Report, taking into consideration any comments that have been received.

### **The Report**

The Final Report should include the following sections:

Cover Sheet - include title of review, team leader, team members, and date  
Executive Summary - briefly describe the review scope, method, and recommendations  
Purpose - reason for the review and desired outcome  
Scope - review approach; what was reviewed; who was interviewed  
Observations/Findings - pertinent observations made during the review  
Recommendations - recommended changes to improve processes and add value  
Lessons Learned/Success Stories - findings that should be shared with others  
Conclusion  
Appendices

### **Distribution**

The Final Report should be sent under a cover letter by the team leader and on behalf of the team to the DelDOT Chief Engineer with a copy to the Delaware Division Administrator. The Delaware Department of Transportation is expected to respond within 30 days directly to the Division Administrator regarding disposition of each recommendation made by the review team. Informational copies of the Final Report may be distributed to other FHWA offices if there are best practices or lessons learned that should be shared among the transportation community. Upon completion and distribution of the Final Report the team has completed their task.

### **FOLLOW-UP**

The Delaware Division will track completed process reviews and will ensure that there is some level of review follow-up depending upon the nature of the findings and recommendations. This follow-up will be conducted to determine if process improvements have been implemented as a result of the review.

/s/ Carolann Wicks  
Ms. Carolann Wicks  
Chief Engineer, DelDOT

/s/ Thomas D. Myers  
Thomas D. Myers  
Division Administrator, FHWA

Date: January 13, 2003

## APPENDIX C – FEDERAL HIGHWAY ADMINISTRATION

Revised: January 2004



U.S. Department  
of Transportation  
Federal Highway  
Administration

**Delaware Division**  
**(302) 734-5323**

**J. Allen Frear Federal Building**  
**300 South New Street, Suite 2101**  
**Dover, Delaware 19904-6726**

### GUIDELINES FOR REQUESTED NOTIFICATION OF FHWA FOR PROJECTS WITH FEDERAL OVERSIGHT

Plan review meetings

Pre-qualification meetings

Pre-bid meetings

Bid openings

Bid tabulation reviews

Preconstruction meetings:

- Initial
- Pre-paving
- Painting
- Specialty work
- Other as requested

Project progress meetings

Project changes as outlined in the Stewardship Agreement

Project documentation specific to project issues that may involve FHWA funds or approval:

- Contingency increases
- Formal claim notices (e.g. differing site conditions, delays)
- Price adjustments
- Suspension of work
- Work zone traffic control issues
- Change order back-up documentation (refer to February 2003 Change Order MOA)
- Other significant specific project issues

Field meetings or notification that may affect project funds or major changes (refer to February 2003 Change Order MOA)

Semi-final inspection

Final inspection

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